

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**HEAVENLY GRAND ESTATES, LLC §
D/B/A HEAVEN ON EARTH, §
Plaintiff, §
§ §
v. § CIVIL ACTION NO: _____
§ §
§ §
**WESTCHESTER SURPLUS LINES §
INSURANCE COMPANY, §
Defendant. §****

DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Westchester Surplus Lines Insurance Company (“Westchester”) files this Notice of Removal and respectfully shows that diversity subject-matter jurisdiction exists and removal is timely.

**I.
REMOVAL IS TIMELY**

1. On February 21, 2020, Plaintiff filed its Original Petition in the matter styled *Heavenly Grand Estates, LLC d/b/a Heaven On Earth v. Westchester Surplus Lines Insurance Company*, Cause No. 20-DCV-271582, in the 458th Judicial District Court of Fort Bend County, Texas.
2. On March 6, 2020, Plaintiff claims it served Defendant by delivering a copy of the citation and petition to “Adriene Logan.”
3. Under federal law, “notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based . . .” 28 U.S.C. § 1446(b)(1).

4. Westchester files this Notice of Removal within the thirty-day time period. *See* 28 U.S.C. § 1446(b). Accordingly, removal of this action is timely.

II.
DIVERSITY OF CITIZENSHIP

5. Removal is proper under 28 U.S.C. § 1332(a)(1) because there is currently complete diversity of citizenship, and complete diversity existed on the date the state court case was filed.

6. Plaintiff is a Texas limited liability company whose sole member is Tamara Vogt, who is a citizen and resident of Texas.

7. Defendant Westchester is an insurance company incorporated in the State of Georgia, with its principal place of business in the Commonwealth of Pennsylvania.

III.
VENUE IS PROPER

8. Venue is proper in the United States District Court for the Southern District of Texas, Houston Division, under 28 U.S.C. §§ 124 and 1446, since it is the district and division within which such action is pending in state court.

IV.
AMOUNT IN CONTROVERSY

9. Plaintiff's lawsuit arises out of a dispute regarding an insurance claim for property damage caused by Hurricane Harvey. According to Plaintiff's petition, "Plaintiff is seeking monetary relief over \$200,000 but not more than \$1,000,000." (Pl.'s Pet. ¶ 4.) Therefore, the amount in controversy exceeds the \$75,000.00 threshold required to invoke this Court's jurisdiction. 28 U.S.C. § 1332(a).

V.
REMOVAL IS PROCEDURALLY CORRECT

10. Pursuant to 28 U.S.C. §1446(a), attached hereto is a copy of all process, pleadings, and orders served upon Westchester in the state court action.

11. Pursuant to Local Rule 81, attached to this notice are the following documents:

- a. All executed process in the case;
- b. Pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings;
- c. All orders signed by the state judge (none);
- d. The docket sheet;
- e. An index of matters being filed; and
- f. A list of all counsel of record, including addresses, telephone numbers and parties represented.

12. Pursuant to 28 U.S.C. §1446(d), promptly after Westchester files this notice, written notice of the filing will be given to Plaintiff.

13. Pursuant to 28 U.S.C. §1446(d), promptly after Westchester files this notice, a true and correct copy will be filed with the District Court Clerk of Fort Bend County, Texas.

VI.
RELIEF REQUESTED

14. Because the amount in controversy exceeds \$75,000.00 and complete diversity of citizenship exists, this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 and the action is properly removed pursuant to 28 U.S.C. § 1441.

Defendant Westchester Surplus Lines Insurance Company respectfully requests that the United States District Court for the Southern District of Texas, Houston Division, accepts this

Notice of Removal, assumes jurisdiction of this action, and issues all such further orders and processes as may be necessary

Respectfully submitted:

By: /s/ Stephen Pate

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**ATTORNEYS FOR WESTCHESTER
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CERTIFICATE OF SERVICE

This certifies that, on March 25, 2020, a true copy of the foregoing was served on the following counsel of record via US Mail or ECF pursuant to the Federal Rules of Civil Procedure:

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